MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2015/2016

UCO3622 – COMPANY LAW II

(All sections / Groups)

9 MARCH 2016
Reading Time: 2.30pm – 2.45pm
(15 Minutes)
Answering Time: 2.45pm – 5.45pm
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in the question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 2 pages with 5 Questions only.

3. Attempt **FOUR** out of **FIVE** questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of :
   (a) Companies Act 1965 (Act 125)
   (b) Capital Markets and Services Act 2007 (Act 671)
   (c) Securities Commission Act 1993 (Act 498)

5. Please print all your answers in the Answer Booklet provided.

QUESTION 1

"A filing of a winding up petition is often used by a creditor as a means to exert pressure on the company to pay its debt. As the presentation of such a petition must be advertised, this would have an adverse impact on the financial standing and the reputation of the company, may also result in the freezing of the company's bank accounts."

Lee Shih, "Injunction to Restrain Filing of a Winding Up Petition" [2007]

With reference to relevant statutory provisions and case laws, critically analyse the effect of winding up on a company and creditors and what can be done where there is a bona fide dispute of debt.

(Total : 25 marks)

QUESTION 2

A scheme of arrangement is "a statutory procedure which requires the approval of the target shareholders at a meeting and the sanction of the court, whereby a compromise or arrangement is proposed between a company and its creditors or between the company and its members or any class of them."

M.A Khan, "Shareholders Protection under Scheme of Arrangement and Takeovers" [2011]

Discuss the steps involved in effecting a proposal for scheme of arrangement.

(Total : 25 marks)

QUESTION 3

The September 2015 amendments to the Capital Markets and Services Act 2007 accorded greater protection to investors by enhancing the regulatory powers of the Securities Commission Malaysia.

Discuss the powers of Securities Commission Malaysia.

(Total: 25 marks)

Continued .....

QUESTION 4

Westeros Bhd. ("WB") borrowed RM1 million from Meereen Bank Bhd. ("MBB") giving as security for the loan, a floating charge over all its assets. A clause in the debenture deed provided that WB was not to create any other charges over its assets ranking in priority to or *pari passu* with the floating charge created in favour of MBB. Six months later, WB purchased several machines and resold most of them for substantial profits. A fixed charge was created over the unsold machines valued at RM1.5 million in favour of Vinterfell Bhd. ("VB") to secure monies borrowed from the latter. Both the floating and fixed charges were duly registered at Companies Commission of Malaysia within the prescribed time. WB has now gone insolvent.

(a) Advise MBB as to who has priority over the charged machines.

(18 marks)

(b) Would your answer be different if, in the debenture deed with MBB, there was a term to the effect that any attempt by WB to create any other charge over the assets subject to the floating charge, without the consent of MBB, would result in the immediate crystallisation of the floating charge?

(7 marks)

(Total: 25 marks)

QUESTION 5

Chancery Bhd. ("CB") was set up in 2000 to manufacture plastic products in Kuala Lumpur. The capital of CB is RM200,000 divided into 100,000 ordinary shares and 100,000 preference shares, both at RM1 per share. The directors of CB are Warren and Russell who are also CB's shareholders, holding 40% of the preference shares each. The remaining preference shares are held by Bow. The company adopts Table A as its articles of association.

The company has been doing very well since its establishment and therefore, the directors feel that it is time for the company to expand its business to some other states. For this purpose, CB will need additional capital to finance the operation of the business at its new locations. The directors propose to issue 200,000 RM1 preference shares to a certain number of the company's clients ranking *pari passu* with the existing preference shares. Unfortunately, Bow objects to this proposal.

Advise the company.

(Total: 25 marks)

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